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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-1899

VINCENT CRAIG JOHNSON
352 S. Ironwood Street
Rialto, CA 92376

A C C U S A T I O N

Respiratory Care Practitioner License No. 10527

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about September 22, 1986, the Respiratory Care Board issued Respiratory Care Practitioner License Number 10527 to Vincent Craig Johnson (Respondent). This license expired on June 30, 2002, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 3710 of the Code states: “The Respiratory Care Board of
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,
3 the Respiratory Care Practice Act].”

4 5. Section 3718 of the Code states: “The board shall issue, suspend, and
5 revoke licenses to practice respiratory care as provided in this chapter.”

6 6. Section 3750 of the Code states:

7 “The board may order the denial, suspension or revocation of, or the imposition of
8 probationary conditions upon, a license issued under this chapter, for any of the following
9 causes:

10 “ . . .

11 “(d) Conviction of a crime that substantially relates to the qualifications, functions,
12 or duties of a respiratory care practitioner. The record of conviction or a certified copy
13 thereof shall be conclusive evidence of the conviction. . . .”

14 7. Section 3752 of the Code states:

15 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
16 made to a charge of any offense which substantially relates to the qualifications, functions,
17 or duties of a respiratory care practitioner is deemed to be a conviction within the meaning
18 of this article. The board shall order the license suspended or revoked, or may decline to
19 issue a license, when the time for appeal has elapsed, or the judgment of conviction has
20 been affirmed on appeal or when an order granting probation is made suspending the
21 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
22 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
23 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
24 indictment.”

25 8. Section 490 of the Code states:

26 “A board may suspend or revoke a license on the ground that the licensee has been
27 convicted of a crime, if the crime is substantially related to the qualifications, functions, or
28 duties of the business or profession for which the license was issued. A conviction within

1 the meaning of this section means a plea or verdict of guilty or a conviction following a
2 plea of nolo contendere. Any action which a board is permitted to take following the
3 establishment of a conviction may be taken when the time for appeal has elapsed, or the
4 judgment of conviction has been affirmed on appeal, or when an order granting probation
5 is made suspending the imposition of sentence, irrespective of a subsequent order under the
6 provisions of Section 1203.4 of the Penal Code.”

7 9. Section 3752.6 of the Code states:

8 “For purposes of Division 1.5 (commencing with Section 475), and this chapter
9 [the Respiratory Care Practice Act], a crime involving sexual misconduct or attempted
10 sexual misconduct, whether or not with a patient, shall be considered a crime substantially
11 related to the qualifications, functions, or duties of a respiratory care practitioner.”

12 10. California Code of Regulations, Title 16, section 1399.370, states:

13 “For the purposes of denial, suspension, or revocation of a license, a crime or act
14 shall be considered to be substantially related to the qualifications, functions or duties of a
15 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
16 perform the functions authorized by his or her license or in a manner inconsistent with the
17 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
18 those involving the following:

19 “ . . .

20 “(e) Conviction of a crime involving lewd conduct, prostitution or solicitation
21 thereof, or pandering and/or indecent exposure, as defined by the Penal Code.”

22 11. Section 118 of the Code states:

23 “ . . .

24 “(b) The suspension, expiration, or forfeiture by operation of law of a license
25 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
26 of the board or by order of a court of law, or its surrender without the written consent of
27 the board, shall not, during any period in which it may be renewed, restored, reissued, or
28 reinstated, deprive the board of its authority to institute or continue a disciplinary

1 proceeding against the licensee upon any ground provided by law or to enter an order
2 suspending or revoking the license or otherwise taking disciplinary action against the
3 licensee on any such ground.

4 “(c) As used in this section, ‘board’ includes an individual who is authorized by
5 any provision of this code to issue, suspend, or revoke a license, and ‘license’ includes
6 ‘certificate,’ ‘registration,’ and ‘permit.’”

7 COST RECOVERY

8 12. Section 3753.5, subdivision (a) of the Code states:

9 "In any order issued in resolution of a disciplinary proceeding before the board, the
10 board or the administrative law judge may direct any practitioner or applicant found to have committed
11 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and
12 prosecution of the case."

13 13. Section 3753.7 of the Code states:

14 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include
15 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,
16 and service fees."

17 14. Section 3753.1, subdivision (a) of the Code states:

18 "An administrative disciplinary decision imposing terms of probation may include,
19 among other things, a requirement that the licensee-probationer pay the monetary costs associated with
20 monitoring the probation."

21 CAUSE FOR DISCIPLINE

22 (Conviction of a Crime)

23 15. Respondent is subject to disciplinary action under sections 3750,
24 subdivision (d), 3752, 490, and 3752.6 of the Code, and section 1399.370, California Code of
25 Regulations, Title 16, section 1399.370 subdivision (e), in that he was convicted of a crime
26 substantially related to the qualifications, functions, or duties of a respiratory care practitioner. The
27 circumstances are as follows:

28 A. On or about September 29, 2003, in a criminal proceeding entitled

1 *People v. Vincent Craig Johnson*, in Superior Court, San Bernardino County, Fontana
2 Judicial District, Case No. MVA040937, respondent was convicted upon his plea of guilty
3 to the crime of possession of child pornography, a misdemeanor, a violation of Penal Code
4 section 311.11(a).

5 B. On or about September 29, 2003, the Court withheld
6 pronouncement of judgment and granted respondent a conditional and revocable release
7 for two years. Respondent was ordered to paying fines of \$461.00.

8 C. The facts and circumstances surrounding this offense are as follows:

9 On or about October 21, 2002, respondent took a polygraph examination as
10 part of the pre-employment process with San Bernardino County Probation Department.
11 During the examination, respondent admitted that he had downloaded child pornography
12 on his computer. The Fontana Police Department was notified. On or about November 8,
13 2002, pursuant to a search warrant served on respondent's residence, computer equipment
14 was seized which contained child pornography. On November 8, 2002, respondent was
15 arrested and charged with possession of child pornography. On January 30, 2003,
16 respondent contacted the police department and told the officer that he had gotten rid of all
17 his adult and child pornography because he felt it was an addiction.

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27 PRAYER

28 WHEREFORE, Complainant requests that a hearing be held on the matters herein

1 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

2 1. Revoking or suspending Respiratory Care Practitioner License Number
3 10527, issued to Vincent Craig Johnson.

4 2. Ordering Vincent Craig Johnson to pay the Respiratory Care Board the
5 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
6 probation monitoring;

7 3. Taking such other and further action as deemed necessary and proper.

8 DATED: May 19, 2004

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11 Original signed by Liane Zimmerman for: _____
12 STEPHANIE NUNEZ
13 Executive Officer
14 Respiratory Care Board of California
15 Department of Consumer Affairs
16 State of California
17 Complainant
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